

**CITY OF WESTMINSTER, MARYLAND  
MAYOR AND COMMON COUNCIL MEETING  
OCTOBER 25, 2010**

**QUORUM:**

A meeting of the Mayor and Common Council was held in the Council Chambers at City Hall, 1838 Emerald Hill Lane, Westminster, Maryland on the evening of October 25, 2010, at 7:00 P.M. Mayor Utz; Council President Halstad; Council Members Albert, Chiavacci, Pecoraro, and Wack; City Administrator and Acting City Clerk Wolf, Acting City Treasurer Ehlers; Deputy Chief of Police Stevens, Director of Planning, Zoning, and Development Beyard, Director of Public Works Glass, Director of Recreation and Parks Schroers; and City Attorney Levan were present. Chief of Police Spaulding was excused from attending.

Mayor Utz presented a Certificate of Appreciation from the City of Westminster to the Grace Evangelical Lutheran Church for their generous donation of a fence for the Dutterer Park Community Garden. He also recognized congregation members in attendance for their responsibilities of care for several of the garden's plots.

Pat Goldberg thanked the Mayor and Common Council for allowing them the ability to grow their food to share within in church and the community. Ms. Goldberg introduced Hank Powers, Helen Englar, and Laura Heller as the attending members of the congregation.

Mr. Pecoraro noted that several years ago, the church came to the City to say that it was going to stay in downtown Westminster. He added that that decision was very important in the community.

**MINUTES:**

Upon motion of Dr. Wack, seconded by Mrs. Albert and unanimously passed, the minutes of the Council meeting of October 11, 2010 were approved.

**CONSENT CALENDAR:**

Mr. Chiavacci moved to approve the Consent Calendar, which consisted of the approval of the September Departmental Operating Reports and the approval of purchasing a replacement snow blower. Mrs. Albert seconded the motion and it passed unanimously.

**REPORT FROM THE MAYOR:**

Mayor Utz reported that he, Ms. Wolf and other City staff members recently attended the MML Conference in Annapolis, Maryland where there was a lot of good networking. He stated that there is a strong move of leadership in the MML to move quickly in front of not only legislators, but the Governor's office or whoever will take the reins to have the Highway User Revenue and police aid either partially or fully renewed. He added that it is currently the number one priority for the MML and was the topic of a lot of discussion.

Ms. Wolf reported that Beverly Swain-Staley, Secretary of the Maryland Department of Transportation, made a presentation at the MML Conference. She stated that Ms. Swain-Staley indicated that all of their indicators in relation to traffic and transit are on the upward swing which bodes well for the municipalities since many of our fees result from licensing. She explained that the amount of cars that have gone through the port has increased 26% and the commercial vehicles are up 2%. Ms. Wolf felt the presentation was a high point and very positive. She also reported that there is partnership with a private firm to do some work at the port. She explained that the \$2B, 50 year project will enable the port to receive the new container ships that come in, making it one of only two on the east coast who will be able to accommodate them. She added that that will create around 5,400 jobs.

Mayor Utz also reported on a letter he received from a gentleman that recently attended the City's Father/Daughter dance. He stated that the letter speaks volumes of not only the City government, but its employees and how they have benefited the community in a very positive way. Finally, he stated that Darlene Childs submitted a grant application for LGIT's training program and recently found out that the City was awarded a \$2,000 from them for Risk Management training.

### **REPORTS FROM STANDING COMMITTEES:**

Mr. Chiavacci reported that a meeting has been set-up with members of the McDaniel College's Department of Campus Safety, Westminster Police Department, Mr. Beyard, and himself to discuss some of the issues pertaining to a complaint that was received at the last Council meeting. Mr. Chiavacci spoke with the President of McDaniel College regarding the issue and Dr. Casey was aware that there was scheduled meeting and was supportive of the City's efforts to try to get the situation controlled.

Dr. Wack reported that Ken Decker, Hampstead's Town Manager and Chair of the Carroll Cable Regulatory Commission (CCRC) for the last ten years, is getting ready to retire, thus stepping down from the CCRC. He stated there will be turnover in some of the leadership positions in case anyone on the Westminster Common Council would be interested in filling Mr. Decker's vacancy.

Next, Dr. Wack reported on the preliminary year-end results and the preliminary first-quarter results. He stated that the cost-cutting and containment measures that have been implemented over the last couple of years are finally paying off. He added that the City is currently in much better shape than a year ago. He explained that on the year-end results, the City has considerable surpluses in all three funds from the considerable savings that were achieved from a variety of cost-cutting measures such as staff positions left vacant and capital projects that were deferred. Dr. Wack also stated that the City's first quarter expense rate is well below what is normally anticipated for this time of year, despite the variable expenses. He explained that depending on the department and the time of year, some departments will incur more expenses at different times of the year. He reported that every department showed significant expense reductions in the first quarter. He feels that is a testament to the Mayor's leadership. He also recognized Ms. Wolf and the department heads that have done a phenomenal job leading their employees, especially with the hardships that were generated with no pay increases and higher benefit costs. He stated

that none of those are popular, but yet the City is still delivering the services that the citizens expect and it is paying off in terms of improved financial health for the City. He concluded by saying that the hardships will continue, but for the first time in a long time, the arrows are pointing the right directions.

Dr. Wack concluded the Finance Committee report by saying that due to the surpluses, the City is in a good position to be able to have some reserves. He explained that in the past, there were discussions about setting aside a Capital Improvement Fund where proceeds from the tax increase would go directly into specifically for Capital projects, but also setting up a Capital Improvement Reserve as well as a General Fund Reserve. He requested that the Mayor authorized Ms. Wolf to expedite the process.

Mayor Utz questioned whether there would be any budgetary complications.

Dr. Wack explained that there would have to be some amendments.

Ms. Wolf stated that they would need to decide what the format would be and that she would put it on the next Council meeting agenda.

### **BIDS:**

Deputy Chief Stevens reported that the Westminster Police Department is requesting permission from the Mayor and Common Council to purchase new parking enforcement equipment from a sole source vendor, Integrated Parking Solutions, Inc., at a cost of \$9,173.20. He explained that the current equipment, which is used by the Parking Enforcement Officer and Cadet, is approximately ten years old and the department was notified in February 2010 that the service agreement for the hardware was not going to be renewed. Deputy Chief Stevens requested that the Mayor and Common Council authorize the purchase of the parking citation equipment from Integrated Parking Solutions, Inc. at the cost of \$9,173.20. Upon motion of Dr. Wack and seconded by Mr. Chiavacci, the bid from Integrated Park Solutions, Inc. was approved.

Mr. Ehlers summarized that discussions began last year regarding being able to negotiate up to 10% of the City's Operating budget for the General Fund as a line of credit. He added that a Charter Amendment was done to accomplish that which was just completed. He stated that he went to PNC, BB&T, and New Windsor State Bank (NWSB) to see what offer terms they would approve the City for that type of a line of credit. He explained that each of the financial institutions were very similar in their response. Mr. Ehlers stated that in his letter to the Finance Committee Members he developed, it listed the advantages of each one of the vendors and what disadvantages were associated with it, as well as his recommendation. He explained that based on those categories, BB&T came slightly ahead of PNC Bank. He added that NWSB did a nice job making an offer, considering that it is not something with which they have much experience. Mr. Ehlers concluded by saying that after taking the interest rate, payment terms, depository status, financial requirements and convenience into consideration, he feels BB&T would be the best option because it would be the least disruptive and still competitive with what the City is trying to do. He added that in conjunction with that, he also recommended that the City moves its Public Housing Agency Fund to NWSB so that there are not any issues of comingling funds and creating

an unnecessary restrictive asset in the General Fund that belongs somewhere else not relative to the line of credit.

Mr. Chiavacci stated that he feels it is imperative that the City does everything it can to support local businesses. He questioned whether the City could meet the \$200,000 cash reserve that NWSB requires should a decision be made in the future that they are a better fit for the City.

Dr. Wack stated that when the City first broached the line of credit discussion a while back, there was some confusion as to what it would be used for and whether the City was taking on debt. He explained that the line of credit is a contingency for managing the City's cash flow to the extent that good reserves are can be maintained across the funds. He added that the City may never have to use it, but it is a prudent management tool to have a line of credit sufficient to keep the operations moving smoothly should there ever be a cash crunch.

Mr. Pecoraro agreed with Dr. Wack and added that given the fact that the City might not need to use the line of credit, BB&T is the better choice since it requires the least in terms of meeting other conditions.

Upon motion of Dr. Wack and seconded by Mr. Pecoraro, the recommendations to request a formal agreement from BB&T for a line of credit and to move the Public Housing Agency Fund account to New Windsor State Bank were approved.

### **ORDINANCES & RESOLUTIONS:**

Mr. Beyard stated that the approval of Ordinance No. 819 would adopt the Comprehensive Zoning Map Amendment No. CMA 10-1 and the accompanying written decision, which was the subject of a public hearing at the October 11<sup>th</sup> Mayor and Common Council meeting. He explained that during the hearing, the only substantive questions were raised by Dr. Seidel from the WMC Development Corporation. Mr. Beyard stated that after discussing WMC's concerns, he feels that they will be very easily solved in a text amendment. Mrs. Albert motioned to approve Ordinance No. 819 and the accompanying written decision. Mr. Chiavacci seconded, and the motion passed unanimously.

Mr. Beyard reminded the Mayor and Common Council that Ordinance No. 820 was introduced at the previous meeting and that they were moving the City's Property Maintenance Code from the 1998 version of the International Property Maintenance Code to the 2009 version. He stated that there was an issue recently regarding the handling of property after an eviction. He explained that the City has been operating, as a policy, through what the County had done, but it was discovered that that way is not covered by County law since County law only applies in the City when the Mayor and Common Council decides that the Ordinance applies. He stated that they took the current policy and how the City operates and attempted to codify them into an amendment and put it in the Property Maintenance Code, thereby not really changing it, but putting it in black and white so that people could see it. Mr. Beyard explained that the City would continue to allow the property to sit for the 48 hours and if it is not removed by the tenant or landlord, the City

will step in and remove it. He stated that questions were raised in regards to what happens if there is a public health, safety, or welfare issue. He explained that with the amendment, the City can step in if there is an issue and take the items to be stored at the Street Department for that 48 hour period and the tenant will be notified. He added that the owner of the removed property will be assessed the cost of the removal of personal property in accordance with the City's General Fee Ordinance.

Mr. Pecoraro recognized that the amendment does not represent any significant change in the way the City has been doing business. He asked Mr. Beyard whether the City receives notices from the courts or the landlord as when they are going to put a tenant's property out on the street.

Mr. Beyard responded that the Carroll County Sheriff's Department, as a courtesy, will contact the City's Code Enforcement Officer.

Mr. Pecoraro questioned where the City will store these items that pose a public health, safety, or welfare issue, and where it would be disposed of and if there is a fee involved in the disposal.

Mr. Beyard explained that the items would be stored at the Street Department for that 48 hour period then disposed of at the landfill. He also explained that there is a different fee scheduled depending on how the property is categorized.

Mr. Glass added that depending on whether it was on weekend hours or an overtime situation, the fee could range from \$250 to \$500.

Mr. Pecoraro explained that his questions were prompted by a communication that the Mayor and Common Council received from the President of Carroll County Landlord Association, Inc. and he wanted to get more information on the record. He stated that when the fees were set, no one expressed any significant concern and he had not heard any complaint since. He added that he appreciated the concerns of the Carroll County Landlord Association, Inc., but feels that it does not sound that it is a particularly onerous system.

Mr. Beyard stated that the City needs to have the option should an issue arise. He feels it will not be something that needs to be done on a continual basis, but if it is an overtime situation, then there should be some reimbursement to the City to recoup the cost for activities that were not caused by City actions.

Mayor Utz questioned how many times this has been initiated this year and Mr. Glass estimated that there have been five or less instances.

Ms. Levan approved of the amendment, explaining that it codifies the powers and authorities that the City already has and provides notice to all parties as to how the City is going to treat it, giving them the ability to collect before the City disposes of it.

Mr. Pecoraro questioned whether the City reaches out to the landlord should they have to go to the step of removing the property.

Mr. Beyard stated that as much as possible, the City tries to communicate with the landlords and Ms. Wolf added that the landlords know the information as the date is known by everyone through the court order.

President Halstad called on members of the Carroll County Landlord Association, Inc. for their opinions and concerns.

President of Carroll County Landlord Association, Inc. Josie O'Neill thanked the Mayor and Common Council for taking the time to read her correspondence she sent in haste via email. She stated that after hearing Mr. Beyard's thorough explanation of the added amendment she fully understands. She added that no one likes to see an eviction, especially what is left of the eviction; therefore it needs to be handled as quickly as possible.

Vice-President of Carroll County Landlord Association, Inc. Sharon Hooper questioned whether the City would pick up the property before the court ordered 48 hours or is the City going to give the landlords the entire 48 hours before it is their responsibility for removing it.

Mr. Beyard explained that, to the maximum extent, the City will try to honor the 48 hour order unless it comes a health safety issue, and then the City has the ability to remove it.

Ms. Hooper explained that, according to the law, she cannot physically move the property any sooner whether there are public safety issues or not, but she does make sure that someone is there to pick it up at the 48 hour time limit.

Mr. Beyard reassured Ms. Hooper that the City will work with her to try and make sure they are in sync. He added that the City is responsible for protecting the health and welfare of the public and there may be times when the City will have to step in before the deadline. Mr. Pecoraro questioned what the cost was to Ms. Hooper should she have to remove the property.

Ms. Hooper stated that she has a maintenance staff that will pick up the property and take it to the landfill, then she attempts to charge it back to the tenant, otherwise she must absorb the cost. She added that it costs less for her to remove the items herself than if the City removes it.

Mr. Chiavacci motioned to approve Ordinance No. 820 – Update Chapter 119 – “Property Maintenance” – 2009 Edition of the International Property Maintenance Code, with Amendment to add new Section 301.4 entitled “Disposition of Property from Evicted Occupants” and the accompanying written decision. Mr. Pecoraro seconded, and the motion passed unanimously.

### **NEW BUSINESS:**

Mr. Ehlers explained that as soon as the Mayor and Common Council adopted the FY2011 Budget, the City started to make adjustment to it to accommodate changes that were

advised throughout the year. He stated that there are approximately 21 items amended, many of which have no net change in the budget other than to increase or decrease revenues and expenses together in the same amounts. Mr. Ehlers summarized the key amendments such as the increase in revenue from the State for State Aid for Police Protection. Also, the City made a change on the ENR facility since it is not an expense item, but is reflected in the balance sheet accounts. It is a reduction of anticipated expenditures from \$15M to \$6M for the fiscal year. The next modification was for the Recreation and Parks Department to do a carryover of funds from the prior year for the replacement of the pavilion at the pool, but that was not scheduled for expenditure until FY2011. He stated that there were several adjustments in funding allocations for Unemployment and Workman's Compensation insurances. He explained that another item that was changed was the \$161K that was in the Capital Improvement Projects under General Fund for the improvements to City Hall that actually should be evenly distributed across the General, Water, and Sewer Funds, consistent with the application of all costs for that facility. Next, Mr. Ehlers explained that there are items for Recreation and Parks Department that are either redistribution of expense items to other cost centers within the department, or additions for program expenditures not included in the initial submission, but required as in years past. Those are going to end up costing about \$52K in expenditures. Finally, he stated that the Police Department additions are for programs included last year that were not part of the initial submission. He explained that the City had the Red Light Camera program, but at the time did not have the revenue and expenditure levels set which was now put in at \$192K for both, so it has zero impact. The other item for the Police is actually an accounting issue with how to handle the discretionary funds through the budget process. He explained that it is \$15K in expense appropriations because there is \$15K in the bank which serves as the revenue basis for that program. It is an existing program, but the City needed to document it through budget and accounting process.

Mr. Ehlers concluded by saying that the net effect of all the changes is that the General Fund is going to receive \$77,728.84 in additional revenue over what was originally approved. The Water and Sewer Funds will go down \$57,300.00 and the one insurance change in the Public Housing Agency Fund is \$230. The Sewer and Water Fund expenditures will be balanced through the transfers from the Benefit Assessment revenue account, although in practice this will be handled through a reduction in expenditures in other accounts. Dr. Wack motioned to approve Budget Amendment No. 1. Mr. Pecoraro seconded, and the motion passed unanimously.

Ms. Wolf summarized that the lease between Alexaris, LLC and the City for the parking lot at 75 and 77 West Main Street, which is primarily used for parking for the Carroll Arts Center, is for five years to the sum of \$1,652.00 per month, payable on a quarterly basis. She stated that two renewal periods were built in to extend the term of the lease with a basic monthly rental fee of \$1,735.00 for the first period and \$1,821.00 for the second period. She recommended that the Common Council approve this lease agreement and authorize the Mayor to execute the document.

Mayor Utz added that the City does recoup some of the funds from the parking meters in place on the lot.

Ms. Wolf agreed that the City is responsible for the parking meters on the lot, but the primary use is not for public parking during the day, but for the events held at the Carroll Arts Center.

Mr. Pecoraro questioned how much the City recoups from the parking meters, but Ms. Wolf explained that the City does not track this by individual parking lots.

Mr. Chiavacci clarified that the City is paying for the property and has recouped some, but it is primarily for the Carroll Arts Center.

Dr. Wack stated that that was the thinking behind the original lease since there were no other large lots near that location.

Mr. Pecoraro explained that, at the time when the City was entering into the agreement with the Carroll County Arts Council, one of the ideas was developing a relationship with Grace Evangelical Lutheran Church to utilize some of the parking lot to meet these needs, but that did not work out. He added that residents were concerned that if the City cleared the Arts Council and did not provide adequate parking, people would be parking on the City streets, displacing neighborhood residents which would have created ill-will towards the Carroll Arts Center.

Mr. Chiavacci inquired as to whether or not the Carroll Arts Center is a County entity. Mr. Schroers clarified that the City owns the building, but the operations of the Carroll Arts Center fall under the Carroll County Recreation and Parks Department.

Mr. Chiavacci feels that if they are part of the County, then he would like to see the County fund a portion of lease in question.

Mr. Pecoraro explained that it is a constant struggle since the City contributes far more the Carroll Arts Center than the County. He added that the Carroll County Arts Council is not appointed by the County, but is self-selected with the Director of the Carroll County Recreation and Parks Department sitting on the Board as a non-voting member. The Council's activities are their own.

Mr. Chiavacci reiterated that the lease is a fair amount of money and he would like to see the County fund a portion.

Mrs. Albert motioned to approve the lease between Alexaris, LLC and the City for the parking lot at 75 and 77 West Main Street. Mr. Pecoraro seconded and the motion passed 4-1 with Mr. Chiavacci opposing.

Mr. Glass reported to the Mayor and Common Council that he recently received an letter from BPR, Inc., a local land surveyor and designer, in regards to an existing stormwater management pond the serves the Eagle View subdivision. He explained that there is a proposed development that could contribute its stormwater to that pond and BPR, Inc. inquired whether or not the City would be interested in that possibility. Mr. Glass stated that there are potential benefits to the City. He explained that the City could get some improvements to that pond, at the expense of the developer, that would employ the



Environmental Site Design principles. Since it is an existing pond, the City would not be under the constraints of building a new site. He stated that another advantage would be that by combining the runoff from the existing and proposed stormwater management facility it would eliminate a second outfall and better control the existing outfall to the nearby golf course. He also added that there could be financial incentives as well. He concluded by saying the BPR, Inc. is inquiring as whether or not the City is interested. If so, they will move forward with feasibility studies. If not, they would move on with building a facility onsite.

Mr. Pecoraro stated that the benefit to the developer would be more buildable lots since they do not have the requirement of constructing their own stormwater facility on the property they control.

Mr. Glass agreed that a possibility of one or more lots would become available. He added that they would have to spend money on the existing pond with expansions and upgrades.

Mrs. Albert motioned to authorize BPR, Inc. to move forward with their feasibility study. Mr. Pecoraro seconded, and the motion passed unanimously.

### **DEPARTMENT REPORTS:**

First Vice President of the Westminster Fire Engine and Hose Company No. 1 Todd Whitson thanked the Mayor and Common Council for their continued support.

Mr. Glass reported that the radio replacement program that started a few months ago is now complete. He explained that they are now using the 6.25 KHz systems that the FCC is going to require them to use by the end of the year. He also stated that construction on Green Street and Fitzhugh Avenue storm drain project will begin the second week in November. Finally, he announced that they are out for bids for the annual roadway pavement program.

Mr. Schroers announced several upcoming events in Westminster such as the Halloween parade on October 26<sup>th</sup> at 7:00pm, the Bench Press Competition on October 30<sup>th</sup>, and the Employee Expo on November 4<sup>th</sup>. He also reported that the Fallfest Committee has selected its 2011 charities, but left the details for Ms. Graham to report.

Mr. Ehlers reported that they are getting everything finished up with the audit for the filing with the State. He stated there are still a few journal entries to be done.

Deputy Chief Stevens reported that they have applied for a grant through GOCCP (Governor's Office of Crime Control and Prevention) for six e-citation devices. He explained that they are portable units that enable officers to swipe the driver's license when issuing a citation rather than handwriting. The information will fill in automatically and the ticket will print out. He also reported that the Westminster Police Department received the Lethality Assessment Award for the second year in a row from the Maryland Network Against Domestic Violence.

Mr. Beyard announced that the upcoming training session the Board of Zoning Appeals is

scheduled for November 9<sup>th</sup>. He reminded the Mayor and Common Council of the Greenvale Mews project from last year. He explained that they provided funding for the Gesell Well project, as well as \$500K, and also provided a well site for the future. Mr. Beyard stated that that project has started and, in addition to the \$500K over the life of that project, it will bring in another \$700K.

Ms. Wolf reported that plans are being finalized for November 4<sup>th</sup> which is the Main Street Tour with President Casey, the Maryland Department of Transportation, the Employee Expo, and the visit from the Maryland Sustainable Growth Commission.

### **CITIZEN COMMENTS:**

Lori Graham of 118 Pennsylvania Avenue reported that the 2011 Fallfest will be announced at the Fallfest/WTTR Sock-Hop Fundraiser on Saturday, October 30<sup>th</sup> at the VFW. She also reported that Miracle on Main Street is coming along well and she has received lot of parade applications.

Rebecca Orenstein of 64 Pennsylvania Avenue suggested that the Chairs of the Tri-Street Committee attend the meeting concerning the McDaniel students to represent the citizens. She stated that she also has ongoing issues with the students across from her house and has not gotten anywhere with the property owner, who is a teacher at the college.

Mr. Chiavacci asked Ms. Orenstein to provide him with the address of the house in question so that it can be brought up at the meeting.

Ms. Orenstein then stated that the City needs to start being more "green". She recommended the City start providing composting bins and looking into commercial recycling. Finally, she thanked Mr. Beyard for considering the citizens with Ordinance No. 820 and thanked Ms. Hooper for how she handles her properties.

Lyndi McNulty of 195 West Main Street also reported that she has had many issues with a college student that lives on campus, but refuses to buy a parking permit. She added that the campus security at McDaniel has been very helpful.

### **ADJOURN:**

Council President Halstad adjourned the meeting at 8:33 PM.

Respectfully Submitted,

Elizabeth L. Fahey